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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,669	01/11/2002	Alfonso Losada	SAS/33	8368

498 7590 01/16/2004

JAMES R. CYPHER
405 14TH STREET
SUITE 1607
OAKLAND, CA 94612

EXAMINER

WILSON, NEILL R

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 01/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/043,669

Examiner

Wilson

Applicant(s) **SW**

LOSADA, ALFONSO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-24 is/are allowed.
- 6) ☒ Claim(s) 1-11 and 14 is/are rejected.
- 7) ☒ Claim(s) 9, 10, 12, 13, 15, 25 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In parent claim 1, the limitation "an extending portion extending from the bearing surface" is indefinite. The claim does not define "bearing surface" and it is not clear which direction the extending portion extends. If it is assumed that the bearing surface is the bottom surface of the plate and that the extending portion extends downwardly from the bearing surface, then, there is a problem with claim 2.

In claim 2, line 2, the limitation "said extending portion comprises a groove" conflicts with the structure of parent claim 1 (if as stated above it is assumed that the extending portion extends downwardly). The groove of claim 2 will recede back from the bottom surface, so it cannot extend downwardly from the surface.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1, 5, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Poupitch.

Poupitch discloses a fastener assembly that includes a plate with a bearing surface, a stud 12 held in the plate and an extending portion 36 extending from the bearing surface. In addition, the plate 26 includes a raised portion 22 which is in the form of a cone.

Claims 1-7, 11 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Losada '883.

Losada '883 discloses a plate having a bearing surface, a stud held in the plate and an extending portion extending from the bearing surface (see the embodiment of Figure 3). The embodiment of Figure 3 discloses a groove that extends back from the bearing surface (which reads on the limitation of parent claim 1 which states that it extends from the bearing surface). With regard to claim 6, note that the embodiment of Figure 2 discloses an extending portion that extends back and has a conical portion.

Claims 1, 3 and 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Allman.

Van Allman discloses a plate having a bearing surface, a stud held in the plate and an extending portion extending from the bearing surface. The extending portion 44 has a conical shape. The stud can be held with its point above the bearing surface, flush with it or below it.

Allowable Subject Matter

Claims 12, 13, 15, 25 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 9 and 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 16-24 are allowed.

Conclusion

Applicant's arguments with respect to claims 1, 5, 6 and 8 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 7/11/03 with respect to the rejections based on the references to Losada and Van Allman have been fully considered but they are not persuasive. The Examiner's position with regard to the application of these references is believed to be clear from the above rejections.

The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with

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all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703)_____ - _____ on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

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A response to this action can be filed by Fax (use Fax No. 703-872-9326).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neill Wilson whose telephone number is 703-308-0164.

The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on 703-308-1159. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

NRW
1/8/04


Neill Wilson
Primary Examiner